

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
JUN 13 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Implementation of the Local Competition)	
Provisions in the Telecommunications Act)	CC Docket No. 96-98
of 1996)	
)	
Interconnection Between Local Exchange)	
Carriers and Commercial Mobile Radio)	CC Docket No. 95-185
Service Providers)	
)	
Calling Party Pays Service Option in the)	WT Docket No. <u>97-207</u> /
Commercial Mobile Radio Services)	

**REPLY COMMENTS OF
MID-MISSOURI CELLULAR**

Mid-Missouri Cellular ("Mid-Missouri"), by its attorneys, and pursuant to the Commission's Public Notice, hereby files this reply to comments regarding the request (the "Request") of Sprint Spectrum L.P., d/b/a/ Sprint PCS' ("Sprint") for a Commission ruling confirming and clarifying that Commercial Mobile Radio Service ("CMRS") providers are entitled to recover traffic-sensitive costs of transporting and terminating telecommunications traffic on their wireless networks in accordance with Section 252(d)(2) of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. § 252(d)(2).^{1/}

In the Public Notice, the Commission seeks comment on whether Sprint and other CMRS carriers are entitled to recover through reciprocal compensation the costs of wireless network

^{1/}See "COMMENT SOUGHT ON RECIPROCAL COMPENSATION FOR CMRS PROVIDERS (CC Docket Nos. 96-98, 95-185 and WT Docket No. 97-207)," DA 001050, rel. May 11, 2000 ("Pubic Notice"). Mid-Missouri provides cellular service on frequency Block B in Missouri RSA 7.

elements that constitute “shared resources” (*i.e.*, mobile switching center with its base station controllers, cell sites or base transceiver stations and transport to the cell sites, and radio spectrum). Further, the Commission seeks comment on whether, and to what extent, asymmetrical reciprocal compensation arrangements between wireline carriers and CMRS providers are likely to alter, for better or worse, the competitive balance between these carriers, and to what extent any such effects are relevant under the terms of the Act.

Most commenting parties decidedly support Sprint’s Request,^{2/} as does Mid-Missouri. Opposing the Request are two large Regional Bell Companies, GTE, the United States Telecom Association and AT&T.^{3/} In this reply, Mid-Missouri will demonstrate that the critical analysis presented by the opposing parties should be disregarded as contradictory and inconsistent.

I. CRITICISM OF SPRINT’S REQUEST IS SELF- CONTRADICTORY AND INCONSISTENT

The opposing parties dispute Sprint’s contention that forward-looking costs for CMRS base station controllers, infrastructure and radio spectrum are traffic sensitive and, as a result, should be recovered in transport and termination charges as additional costs under Section 252(d)(2)(A)(ii) of

^{2/}Comments of the Cellular Telecommunications Industry Association (“CTIA Comments”), Comments of the Personal Communications Industry Association (“PCIA Comments”), Comments of VoiceStream Wireless Corporation (“VoiceStream Comments”), Comments of Western Wireless Corporation in Support of Petition to Require Cost-Based Reciprocal Compensation for CMRS Providers (“Western Wireless” Comments), Comments of Alpine PCS, Inc. (“Alpine Comments”), Comments of Centennial Communications Corp. (“Centennial Comments”), Comments of Cellular XL Associates, L.P. (CXL Comments”), and Comments of Metrocall, Inc. (“Metrocall Comments”).

^{3/}Comments of BellSouth (“BellSouth Comments”), Comments of U S West Communications, Inc. (“US West Comments”), GTE Comments, Comments of the United States Telecom Association (“USTA Comments”), and Comments of AT&T Corp. (“AT&T Comments”).

the Act. According to the opposing parties, implementing this concept will incite a parade of horrors that will be as detrimental to public policy as it is to the narrow financial interests of incumbent local exchange carriers ("ILECs"). Thus, opponents claim that Sprint's proposal will undermine pricing and technology efficiency, accord CMRS carriers an extreme competitive advantage, extract illegal subsidies from ILECs, and yield irrational results.^{4/}

These criticisms are not only flawed, but also exaggerated and self-contradictory. The notion that recognizing all traffic sensitive CMRS network elements in transport and termination charges is antithetical to the efficiency principles so assiduously nurtured in the Commission's Local Competition rulemaking^{5/} simply ignores the details of Sprint's proposal. Indeed, the Sprint White Paper discusses at great length modeling of costs of a CMRS network's traffic sensitive components in conformance with the TELRIC principles set forth in the Local Competition Order. Contrary to the opponents' accusation, Sprint's proposal specifically attempts to promote and enhance pricing and technology efficiency with respect to reciprocal compensation.^{6/}

Equally perplexing is the opponents' tack, or lack thereof, in parrying the contention that costs of CMRS network components, excluding handsets, are traffic sensitive and, as a result, properly recoverable as "additional costs" in transport and termination charges. BellSouth, by citing the Local Competition Order (at ¶ 1057), acknowledges that the Commission determined that non-

^{4/}AT&T Comments at 7-8; BellSouth Comments at 5; USTA Comments at 9; and US West Comments at 6, respectively.

^{5/}See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499 (1996) ("Local Competition Order").

^{6/}Sprint White Paper at 22 - 27.

traffic sensitive costs should not be considered “additional costs,” as that phrase is used in Section 252(d)(2)(A)(ii) of the Act, thereby implying that traffic sensitive costs should indeed be so considered.^{7/} BellSouth next contends that the Local Competition Order excluded local loop and line ports associated with local switching from the “additional costs” definition in order to be more restrictive “than a true economic definition of ‘forward looking economic cost’” would warrant.^{8/} In expressly excluding loop and line ports from “additional costs,” the Commission, rather than being arbitrarily restrictive, was adhering closely to the costing principles animating the Local Competition Order, specifically the notion developed earlier in that Order that loop costs are traffic *insensitive*:

Most loop costs are associated with a single customer. Outside plant between a customer’s premises and ports on incumbent LEC switches is typically either physically separate for each individual customer, or has costs that can easily be apportioned among users. We therefore conclude that costs associated with unbundled loops should be recovered on a flat-rated basis.^{9/}

The Local Competition Order is straightforward and forthright on this matter. For the cost of a network component to fall within the ambit of Section 252(d)(2)(A)(ii) “additional costs,” it must be traffic sensitive; local loop and line port costs, however, are traffic insensitive and cannot be recovered pursuant to Section 252(d)(2)(A)(ii). CMRS network components were examined in the Sprint White Paper on the basis of two criteria— dedication to a single user (versus shared by

^{7/}BellSouth Comments at 2-3.

^{8/}*Id.*

^{9/}Local Competition Order, 11 FCC Rcd at 15893 (¶ 789) (footnote omitted).

multiple users) and traffic sensitive (or insensitive) costs. According to this analysis, all CMRS network components, excluding handsets, are shared among users and exhibit traffic sensitive costs.^{10/}

To refute the Sprint White Paper analysis, BellSouth asserts first that the term “additional costs,” as used in Section 252(d), is not synonymous with “traffic sensitive” costs.^{11/} BellSouth then parodies the Sprint White Paper analysis with the maxim that, in the long run, all costs— including the loop costs that the Local Competition Order excluded from the definition of “additional costs”— are variable (or traffic-sensitive) and, thus, properly classified as “additional costs.” This axiom is proved, according to BellSouth, in every household where the presence of a teenager necessitates installation of an additional telephone line. Neither of these attacks, however, is particularly persuasive.

While BellSouth deplores equating “additional costs” with traffic sensitive costs, such equation, as discussed earlier, is the plain logical implication of paragraphs 1057 and 789 of the Local Competition Order. Mid-Missouri has no reason to believe that BellSouth or any other party to the Local Competition Order sought reconsideration or review on this point. Moreover, Sprint’s analysis included more than just the cost variability of each CMRS network component. First, Sprint determined whether each such network component was shared by several users or whether

^{10/}In declaring that Sprint did no analysis “as to whether the elements of the CMRS provider’s network beyond the mobile switching center have costs that vary ‘in proportion to the number of calls’ carried over these facilities,” BellSouth (Comments at 7) seems unaware that costs that vary with the number of calls are, by definition, traffic sensitive and the analysis BellSouth deems missing can be found in the White Paper on pages 10 through 17.

^{11/}BellSouth Comments at 7.

it was dedicated to a single user.^{12/} For that reason, even if BellSouth's glib claim concerning the long-run traffic sensitivity of loop costs were seriously presented, the Commission previously determined that these costs were directly allocable to each of a wireline's end users and, thus, should not be recovered through usage sensitive rates.^{13/}

Rather than rely on aphorisms about the "long-run," US West, in contrast to BellSouth, challenges Sprint's Request by arguing that a large portion of ILECs' local loop equipment is, in fact, shared;^{14/} as a result, the costs of this equipment should be recovered on the same basis as Sprint proposes for CMRS network components.^{15/} This claim, however, is irreconcilable with the Commission's determination in the Local Competition Order that "[m]ost loop costs are associated with a single customer." Nowhere do the US West Comments challenge the Local Competition Order on this issue, nor do the Comments refer to any attempt by US West to obtain reconsideration or review of the Order with respect thereto. The US West Comments thus beg the question, if such a large portion of ILECs' local loop equipment is indeed shared why did the Local Competition Order's determinations to the contrary go unchallenged by US West and the ILEC community.

^{12/}Sprint White Paper at 10.

^{13/}Local Competition Order, 11 FCC Rcd at 15893 (¶ 789).

^{14/}GTE suggests a similar view, but provides no supporting analysis. *See* GTE Comments at 5.

^{15/}US West Comments at 7; a depiction of the shared network elements in the wireline local loop are also provided by US West, *id* at 9.

II. CONCLUSION

For all the foregoing reasons, Mid-Missouri respectfully requests that the Commission grant the Sprint Request.

Respectfully submitted,

MID-MISSOURI CELLULAR

By: 

Michael K. Kurtis

Jerome K. Blask

Lisa L. Leibow

Its Attorneys

Kurtis & Associates, P.C.

2000 M Street, N.W.

Suite 600

Washington, D.C. 20036

(202) 328-4500

June 13, 2000

Reply Comments of Mid-Missouri Cellular

CERTIFICATE OF SERVICE

I, Jennifer L. Clapp, a secretary with the law firm of Kurtis & Associates, P.C., do hereby certify that I have this 13th day of June 2000, had copies of the foregoing "REPLY COMMENTS" sent via First Class United States Mail Postage Prepaid to the following:

Stacy Jordan*
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-A431
Washington, D.C. 20554

Wanda Harris*
Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-A452
Washington, D.C. 20554

Jonathan M. Chambers
Vice President, Regulatory Affairs
Sprint PCS
401 9th Street, N.W.
Suite 400
Washington, D.C. 20004

Gene DeJordy
Vice President of Regulatory Affairs
Western Wireless Corporation
3650 131st Avenue, S.E.
Bellevue, Washington 98006

Russell M. Blau
Michael C. Sloan
Swidler, Berlin, Shereff & Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
Counsel for Western Wireless Corporation

Karlyn D. Stanley
Brenda J. Boykin
Cole, Raywid & Braverman, L.L.P.
1919 Pennsylvania Avenue, N.W., Suite 200
Washington, D.C. 20006-3458
Counsel for Centennial Communications
Corp., Counsel for Alpine PCS, Inc.

Michael F. Altschul
Vice President, General Counsel
Randall S. Coleman
Vice President for Regulatory Policy and Law
Cellular Telecommunications Industry
Association
1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036

Frederick M. Joyce
Christine McLaughlin
Alston & Bird LLP
601 Pennsylvania Avenue, N.W.
North Building, 11th Floor
Washington, D.C. 20004-2601
Counsel for Metrocall, Inc.

Christine M. Crowe
Paul, Hastings, Janofsky & Walker, LLP
1299 Pennsylvania Avenue, N.W., 10th Floor
Washington, D.C. 20004
Counsel for Cellular XL Associates, L.P.

M. Robert Sutherland
BellSouth Corporation
1155 Peachtree Street, N.E.
Suite 1800
Atlanta, Georgia 30309-3610

Robert L. Hoggarth
Senior Vice President and Chief of Staff,
for Government Relations
Angela E. Giancarlo
Director, Federal Regulatory Affairs
Personal Communications Industry Association
500 Montgomery Avenue
Suite 700
Alexandria, Virginia 22314

Brian Thomas O'Connor
Vice President, Legislative & Regulatory
Affairs
Robert Calaff
Corporate Counsel, Governmental &
Regulatory Affairs
VoiceStream Wireless Corporation
1300 Pennsylvania Avenue, N.W., Suite 700
Washington, D.C. 20004

Douglas G. Bonner
Sana D. Coleman
Arent, Fox, Kintner, Plotkin & Kahn PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington, D.C. 20036
Counsel for VoiceStream Wireless Corporation

Gregory J. Vogt
Christopher Guttman-McCabe
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Counsel for GTE Service Corporation

Andre J. LaChance
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Thomas R. Parker
GTE Service Corporation
600 Hidden Ridge, MS HQ-E03J43
P.O. Box 152092
Irving, Texas 75015-2092

Howard J. Symons
Sara F. Seidman
Paula Deza
Ghita Harris-Newton
Mintz, Levin, Cohn, Ferris, Glovsky, and
Popeo, P.C.
701 Pennsylvania Avenue, N.W., Suite 900
Washington, D.C. 20004
Counsel for AT&T Corp.

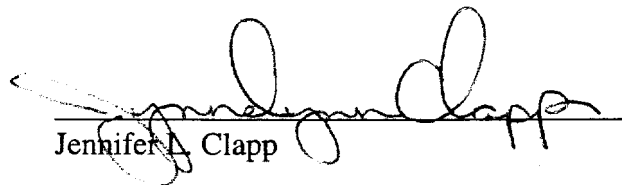
Mark C. Rosenblum
Steven C. Garavito
Teresa Marrero
AT&T Corp.
Room 1131M1
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Douglas I. Brandon
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

Robert B. McKenna
Jeffrey A. Brueggeman
US West, Inc.
1020 19th Street, N.W.
Washington, D.C. 20036

John H. Harwood II
Lynn R. Charytan
Jonathan Frankel
Mary E. Kostel
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037
Counsel for US West Communications, Inc.

Lawrence E. Sarjeant
Linda L. Kent
Keith Townsend
John W. Hunter
Julie E. Rones
The United States Telecom Association
1401 H Street, N.W., Suite 600
Washington, D.C. 20005



Jennifer A. Clapp

*Hand Delivered